

(2023) 05 SHI CK 0114
In the High Court Of Himachal Pradesh
Case No : CR.MMO No.398 Of 2023

Natwar Singh Bhawta

APPELLANT

Vs

State Of Himachal Pradesh & Anr

RESPONDENT

Date of Decision : 22-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 307, 323, 354
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2023) 05 SHI CK 0114

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : V.S.Chauhan, Anirudh Sharma, Y.P.S. Dhaulta, Rajul Chauhan

Final Decision : Allowed

Judgement

Jyotsna Rewal Dua, J

1. The petitioner seeks quashing of FIR No.145/2022, dated 28.08.2022, registered under Sections 323 and 354 of the Indian Penal Code (IPC) at Police Station Rohru, District Shimla, H.P. Prayer for quashing of the FIR and for setting aside the consequent judicial proceedings has been made on the basis of compromise arrived at between the parties.

2. The FIR was registered on the basis of a complaint lodged by respondent No.2. As per status report, post registration of the FIR, investigation was carried out. During investigation, it came out that there was a dispute between the petitioner and respondent No.2 about the rent to be paid by respondent No.2 to the petitioner, in lieu of shop leased out by Himachal Road Transport Corporation. It has also come on record that a counter FIR was also got registered by the petitioner against respondent No.2.

3. Alongwith the petition, a compromise executed between the private parties on 10.04.2023 has been placed on record at Annexure P-2. In terms of this compromise, the petitioner and respondent No.2 have resolved their disputes

with each other. The compromise records that the complainant in order to maintain cordial relations, is not interested in pursuing the instant FIR any further and has no objection in case the FIR is quashed and consequential judicial proceedings are set aside.

4. The parties, i.e. petitioner and respondent No.2 have attended today's hearing. They were duly identified by their learned counsel. In their separate statements recorded today, the complainant as well as accused have stood by the averments made in the compromise dated 10.04.2023 (Annexure P-2). In terms of the said compromise, respondent No.2 does not want to pursue the matter any further.

5. The law laid down in respect of exercise of powers under Section 482 of the Code of Criminal Procedure for quashing or for refusing to quash the FIR and resultant proceedings on the basis of compromise effected by the parties laid down in (2012) 10 SCC 303, titled *Gian Singh vs. State of Punjab*; (2014) 6 SCC 466, titled *Narinder Singh vs. State of Punjab*; (2017) 9 SCC 641, titled *Parbatbhai Aahir vs. State of Gujarat*, has been noticed again by Hon'ble Apex Court in (2019) 5 SCC 688, titled *State of Madhya Pradesh vs. Laxmi Narayan*, with following observations:-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15. 1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2 Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court

would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/ compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise.”

6. The FIR in question has been registered under Sections 323 and 354 IPC. The offences involved in the FIR do not fall in the prohibited category in terms of the legal position settled by the Hon’ble Apex Court in various pronouncements. Learned Additional Advocate General submits that in view of the compromise reached between the parties and the investigation carried out in the matter, respondent No.1 has no objection to quashing of FIR and consequent criminal proceedings.

7. Since the parties have amicably settled the matter amongst themselves, therefore, no purpose will be served by keeping the litigation alive. Continuation of the FIR and consequential criminal proceedings would not advance the cause of justice when the complainant is not interested in pursuing the matter any further. The chances of conviction of the petitioner would be very very remote. Hence, interest of justice requires that the FIR and consequential criminal proceedings be quashed.

Consequently, the present petition is allowed. No.145/2022, dated 28.08.2022, registered under Sections 323 and 354 of the Indian Penal Code (IPC) at Police Station Rohru, District Shimla, H.P. is quashed and consequent criminal proceedings, if any, are set aside.

The petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.